

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

74.

OA 749/2024 WITH MA 934/2024

Hav Lalu Pappachan (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kr. Gupta, Advocate
For Respondents : Mr. S.S. Sinha, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

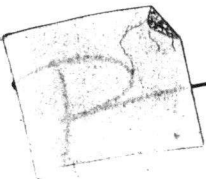
ORDER
21.11.2024

MA 934/2024

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay in filing the present OA. In view of the judgment of the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs. Tarsem Singh [2009 (1) AISLJ 371] and the reasons mentioned in the application, the delay in filing the OA is condoned. MA stands disposed of.

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2. Invoking the jurisdiction of this Tribunal; under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and the reliefs claimed in para 8 read as under:



- (a) To direct the respondents to grant disability element of pension @ 30% broad banded to 50% by treating the onsets as attributable and aggravated by Military service in terms of Order placed as Annex A4 & 5.
- (b) Quash the impugned order placed at Annex A1 (Colly) and summon all medical record of applicant including RMB; and or
- (c) To direct the respondents to pay the due arrears with interest @ 8% p.a. and/or pass such further order or orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."

3. The applicant was enrolled in the Indian Army on 30.12.1997 and discharged from Service on 31.03.2019. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records. The composite disability for the ailment has been assessed at 30% for life.

4. Keeping in view the consistent stand taken by this Tribunal based on the law laid down by the Hon'ble Supreme Court in the case of Dharamvir Singh Vs. Union of India and others (2013) 7 SCC 316 that Primary Hypertension may arise even in a peace area due to stress and strain of service, we see no reason not to allow the prayer of the applicant with regard to the disability Primary Hypertension, which has been assessed by the competent Medical Board @ 30%.

5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of

Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012)
decided on 10.12.2014. However, the arrears will be restricted to
three years from the date of filing of this OA or the date of
applicant's retirement/discharge, whichever is lesser, in keeping
with the law laid down in the case of Union of India and others
Vs. Tarsem Singh [2008 (8)SCC 649].

6. Accordingly, the respondents are directed to calculate,
sanction and issue necessary PPO to the applicant within four
months from the date of receipt of copy of this order, failing
which, the applicant shall be entitled to interest @ 6% per annum
till the date of payment.

7. No order as to costs.

8. Pending miscellaneous(s) application, if any, stands closed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

/vks/